

ADMINISTRATIVE REGULATIONS PERTAINING TO CHILD LABOR

SECTION 100 - GENERAL PROVISIONS

2.100 - Definitions

1. "Child" or "children" means any person under the age of eighteen (18) years, unless more narrowly defined within the context of a specific regulation.
2. "Department" means the Arkansas Department of Labor.
3. "Director" means the Director of the Arkansas Department of Labor.
4. "Division" means the Labor Standards Division of the Arkansas Department of Labor.
5. "Employ" includes to suffer or permit to work.
6. "FLSA" means the federal Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.
7. "Non-School Days" means days that school is not in session in the district where a child resides.
8. "Remunerative Occupation" means any occupation in which compensation for services is made, anticipated, or required by the FLSA or Ark. Code Ann. §§ 11-4-201 et seq.
9. "School Vacation" means any period, other than a weekend, in which school is not in session in the district where a child resides. This includes summer break, Christmas break, and spring break.

2.101 Minimum Age Standards

(a) No child under the age of fourteen (14) years shall be employed or permitted to work in any remunerative occupation, except as follows:

(1) During school vacation, children under fourteen (14) years may be employed by their parents or guardians in occupations owned or controlled by them;

(2)(A) A child under the age of fourteen (14) years may be employed or may enter into contracts upon written approval of the parent or guardian of the minor to buy, sell, and deliver and to collect for newspapers during the school term or during vacation, if the child is attending school, as required by law, and does not engage in the employment or activity except at times when his presence is not required at school.

(B) The provisions of Rule 2.101(a)(2)(A) shall be applicable only where the provision is made by the employer or newspaper company contractor to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(C) The schedule of benefits under this program of insurance or indemnity shall provide at least ten thousand dollars (\$10,000) for accidental death of the minor, and the sum shall be reasonably and equitably prorated for dismemberment of the minor. The insurance or indemnity shall further provide blanket medical coverage for all hospital and medical expenses up to five thousand dollars (\$5,000) resulting from an accident. This hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

(3) (A) A child under the age of fourteen (14) years may be employed or may enter into contracts, upon written approval of the parent or guardian of the minor, to serve as and perform the duties of a "batboy" or "batgirl", for a professional baseball club, during the school term, or during vacation, if the child is attending school, as required by law, and does not engage in the employment or activity except at times when his presence is not required at school.

(B) The provisions of Rule 2.101(a)(3)(A) shall be applicable only where the provision is made by the employer or professional baseball club to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(C) No child shall be employed or permitted to work pursuant to the provisions of Rule 2.101(a)(3)(A) for more than ten (10) hours in any day or after 11:00 p.m. on nights preceding school days or after 1:00 a.m. on nights preceding nonschool days.

(4) A child under the age of fourteen (14) years may be employed in the entertainment industry provided such employment is in compliance with the provisions of Ark. Code Ann. §§ 11-12-101 through -105 and Rules 2.400 through 2.405 herein.

(b) No child under the age of sixteen (16) years shall be employed or permitted to work in certain enumerated occupations prohibited by Ark. Code Ann. §§ 11-6-105 and 107 or determined to be hazardous by the Director. See Rules 2.300 through 2.303 herein.

(c) No child under the age of sixteen (16) years shall be employed or permitted to work without an employment certificate or entertainment work permit issued and maintained pursuant to the provisions of Ark. Code Ann. §§11-6-109, and 11-12-104 and Rules 2.200-2.203 and 2.401 herein, except:

(1) A child employed as a newspaper carrier pursuant to Rule 2.101(a)(2); and

(2) A child employed as a "batboy" or "batgirl" pursuant to Rule 2.101(a)(3).

(d) No person under the age of twenty-one (21) years shall operate any taxicab or bus service for hire, or otherwise, in a city of the first class or to drive a bus or taxicab, as an employee, partner, or otherwise, for another. Ark. Code Ann. § 14-57-402.

SECTION 200 - EMPLOYMENT CERTIFICATES

2.200 General

(a) No child under sixteen (16) years shall be employed or permitted to work unless the child first obtains an employment certificate issued by the Director. For children employed in the entertainment industry, see Rules 2.400 through 2.405 herein.

(b) A child who resides in homes for dependent children may perform domestic activities without being considered an employee. Such activities include personal care, maintenance of living quarters, work around the residence or its farms and other activities normally performed by children when living at home and under direct parental control.

(c) All children employed in interstate commerce or in the production of good for interstate commerce, or employed in any enterprise engaged in interstate commerce or the production of goods for interstate commerce, are subject to the child labor provisions of the federal Fair Labor Standards Act, (FLSA) 29 U.S.C. §§ 201 et seq. Establishments or individuals so covered by the FLSA are subject to all the rules this chapter relating to child labor, including the issuance, maintenance, and revocation of employment certificates.

(d) An employment certificate is valid only for the employer specified on the certificate. A new certificate must be obtained for each new employer. A certificate remains valid for a child who terminates employment but then resumes work at the same place of employment.

(e) The provisions of rules 2.200 through 2.203 do not apply to children employed or permitted to work as newspaper carriers pursuant to Rule 2.101(a)(2) or as "batboys" or "batgirls" pursuant to Rule 2.101(a)(3).

2.201 Application of Employment Certificate

(a) Application for an employment certificate shall be made on a form provided and approved by the Department.

(b) The applicant for an employment certificate must provide proof of age by means of one of the following:

(1) A birth certificate;

(2) Record of Baptism or Confirmation;

(3) Bible record;

(4) Passport or Certificate of Arrival in the United States;

(5) Insurance policy at least one (1) year old;

(6) School records; or

(7) Any state driver's license or learner's permit.

(c) The application for an employment certificate will require submission of the following information:

(1) Child's name, address, telephone number, sex, age and birthdate;

(2) Employer's name, address and telephone number;

(3) A signed statement from the employer verifying the intention to employ, describing the work to be performed, and listing the daily and weekly hours of employment; and

(4) The signature of a parent or guardian consenting to the issuance of the employment certificate.

2.202 Review, Issuance and Maintenance of Certificates

(a) The Labor Standards Division shall review each application for an employment certificate and shall refuse to issue a certificate for cause.

(1) No certificate shall be issued where the proposed employment does not comply with all statutory requirements and prohibitions, and all rules and regulations promulgated thereunder.

(2) No certificate shall be issued to a youth or an establishment required to comply with or subject to regulation of child labor under the FLSA if the proposed employment will be in violation of the FLSA and all rules and regulations promulgated thereunder.

(b) The Labor Standards Division shall issue each employment certificate in duplicate. One copy shall be maintained by the Department for a period of three (3) years. One copy shall be mailed or delivered to the employer.

(c) No employer shall employ a child until the employer has received his copy of the employment certificate. The employer shall maintain the certificate on record where it is readily accessible to the Arkansas Department of Labor, the Arkansas Department of Education, and local school officials. The employer shall maintain the certificate on record so long as the child is employed thereunder and for a period of three (3) years after the employment terminates.

(d) If the Labor Standards Division refuses to issue or denies an employment certificate, it shall notify the child and employer of the reason(s) for such a refusal in writing. The employer or child may request an administrative hearing on such refusal or denial within fifteen (15) days of receipt of such notice. Procedures for such administrative reviews shall conform to those for hearings in contested cases involving civil money penalties pursuant to Rule 2.702.

2.203 Revocation

(a) The Labor Standards Division may revoke an employment certificate for cause. The Division shall notify the child and the employer that the certificate is being revoked and shall specify the reasons for the revocation.

(b) If a certificate is revoked, the employer shall cease to employ the child and return the certificate to the Department.

(c) The employer or child may obtain an administrative review of the revocation by making a written request for a hearing in the same manner as provided in Rule 2.202(d) herein. Even if a request for a hearing is filed, the certificate must be returned and the employment must cease pursuant to paragraph (b) of this Rule:

SECTION 300 - HAZARDOUS OCCUPATIONS

2.300 Occupations

(a) Ark. Code Ann. §§ 11-6-105 and 11-6-107 provide that children under sixteen (16) years shall not be employed and shall not be permitted to work in certain enumerated occupations found by the General Assembly to be hazardous, specifically:

- (1) Adjusting any belt to any machinery;
- (2) Sewing or lacing machine belts in any workshop or factory;
- (3) Oiling, wiping, or cleaning machinery or assisting therein;
- (4) Operating or assisting in operating any of the following machines:
 - (A) Circular or band saws;
 - (B) Wood shapers;
 - (C) Wood jointers;
 - (D) Planers;
 - (E) Sandpaper of woodpolishing machinery;
 - (F) Wood turning or boring machinery;
 - (G) Picker machines or machines used in picking wool;
 - (H) Carding machines;
 - (I) Job or cylinder printing presses operated by power other than foot power;
 - (J) Boring or drill presses;
 - (K) Stamping machines used in metal or in paper or leather manufacturing;
 - (L) Metal or paper cutting machines;
 - (M) Corner staying machines in paper box factories;
 - (N) Steam boilers;
 - (O) Dough brakes or cracker machinery of any description;
 - (P) Wire or iron straightening or drawing machinery;
 - (Q) Rolling mill machinery;
 - (R) Washing, grinding, or mixing machinery;

- (S) Laundering machinery;
 - (5) In proximity to any hazardous or unguarded belt, machinery, or gearing;
 - (6) Upon any railroad, whether steam, electric, or hydraulic; or,
 - (7) In any saloon, resort, or bar where intoxicating liquor of any kind is sold or dispensed.
- (b) The following occupations are determined by the Director to be sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom:
- (1) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;
 - (2) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;
 - (3) The operation of motor vehicles or service as helpers on such vehicles;
 - (4) Public messenger service;
 - (5) Occupations in connection with:
 - (A) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;
 - (B) Warehousing and storage;
 - (C) Communications and public utilities;
 - (D) Construction (including demolition and repair); except such office (including ticket office) work, or sales work in connection with paragraphs (5)(A),(B),(C), and (D) of this Rule 2.300(b), as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations;
 - (6) Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components except where such work is performed in a "nonexplosives area" as defined in Rule 2.300(b)(6)(C).
 - (A) The term "plant or establishment manufacturing or storing explosives or articles containing explosive component" means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.
 - (B) The terms "explosives" and "articles containing explosive components" means and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR Parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat. 739; 18 U.S.C. 835).
 - (C) The term "nonexplosive area" shall mean an area which meets all the following criteria:
 - (i) None of the work performed in the area involves the handling or use of explosives;
 - (ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;
 - (iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and
 - (iv) Satisfactory controls have been established to prevent employees under 16 years of age within the area from entering any area in or about the plant which does not meet criteria of 2.300(b)(6)(C)(i) through (iv);
 - (7) Occupations in logging and in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill; and
 - (8) Occupations in or about slaughtering and meat packing establishments, or rendering plants and
 - (9) Occupations in proximity to pin-setting machinery or gearing in bowling alleys.

2.301 Occupations in Retail, Food Service, and Gasoline Service Establishments.

- (a) This paragraph, Rule 2.301(a), shall apply to the following permitted occupations for children under the age of 16 employed by retail, food service, and gasoline service establishments.
- (1) Office and clerical work, including the operation of office machines;
 - (2) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;
 - (3) Price marking and tagging by hand or by machine, assembling orders, packing and shelving;
 - (4) Bagging and carrying out customers' orders;
 - (5) Errand and delivery work by foot, bicycle, and public transportation;

(6) Clean up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers, or cutters;

(7) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;

(8) Work in connection with cars and trucks if confined to the following: Dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing; and other occupations permitted by this Rule 2.301(a), but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

(9) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from those where the work described in paragraph (b)(7) of this Rule is performed;

(b) Paragraph (a) of this Rule shall not be construed to permit the application of this Rule to any of the following occupations in retail, food service, and gasoline service establishments:

(1) All occupations listed in Rule 2.300 except occupations involving processing, operation of machines and work in rooms where processing the manufacturing take place which are permitted by paragraph (a) of this Rule;

(2) Work performed in or about boiler or engine rooms;

(3) Work in connection with maintenance or repair of the establishment, machines or equipment;

(4) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;

(5) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria service counters) and baking;

(6) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers, and cutters, and bakery-type mixers;

(7) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in paragraph (a)(9) of this Rule;

(8) Loading and unloading goods to and from trucks, railroad cars, or conveyors;

(9) All occupations in warehouses except office and clerical work.

(c) This Regulation, 2.301, shall not prohibit the employment of a child below the age of sixteen (16) by his parent or guardian in an occupation owned or controlled by such parent or guardian.

2.302 Occupations in Agriculture

(a) The following occupations in agriculture are particularly hazardous for the employment of children below the age of 16:

(1) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift;

(iii) Potato combine; or

(iv) Power-driven circular, band, or chain saw.

(4) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

(6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(8) Working inside:

(i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(ii) An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

(iii) A manure pit; or

(iv) A horizontal silo while operating a tractor for packing purposes.

(9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label;

(10) Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

(11) Transporting, transferring, or applying anhydrous ammonia.

(b) Occupational definitions. In applying machinery, equipment, or facility terms used in paragraph (a) of this section, the Labor Standards Division will be guided by the definitions contained in the current edition of "Agricultural Engineering", a dictionary and handbook, Interstate Printers and Publishers, Danville, Ill. Copies of this dictionary and handbook are available for examination in the offices of the Arkansas Department of Labor.

(c) Exemptions.

(1) This regulation 2.302 shall not apply to the employment of a child below the age of sixteen (16) by his parent or guardian on a farm owned or controlled by such parent or guardian;

(2) Student-learners. The prohibitions in 2.302 (a) shall not apply to the employment of any child as vocational agriculture student-learner in any of the occupations described in paragraph (1), (2), (3), (4), (5), or (6) of 2.302 (a) when each of the following requirements are met:

(A) The student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school:

(B) Such student-learner is employed under a written agreement which provides; (i) that the work of the student-learner is incidental to his training; (ii) that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; (iii) that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and (iv) that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(C) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(D) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(3) Federal Extension Service. The prohibitions in Rule 2.302(a) shall not apply to the employment of a child under 16 years of age in those occupations in which he has successfully completed one or more training programs described in 2.302(c)(3)(A), (B), or (C) provided he has been instructed by his employer on safe and proper operation of the specific equipment he is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his safety is checked by the employer at least at midmorning, noon, and midafternoon.

(A) 4-H tractor operation program. The child is qualified to be employed in an occupation described in 2.302(a)(1) provided:

(i) He is a 4-H member;

(ii) He is 14 years of age, or older;

(iii) He is familiar with the normal working hazards in agriculture;

(iv) He has completed a 10-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with the requirements of the Cooperative Extension Service of a land grant university:

- (a) First Year Manual:
 - Unit 1 - Learning How to be Safe;
 - Unit 4 - The Instrument Panel;
 - Unit 5 - Controls for Your Tractor;
 - Unit 6 - Daily Maintenance and Safety Check; and
 - Unit 7 - Starting and Stopping Your Tractor;
- (b) Second Year Manual:
 - Unit 1 - Tractor Safety on the Farm;
- (c) Third Year Manual:
 - Unit 1 - Tractor Safety on the Highway;
 - Unit 3 - Hitches, Power Take-off, and Hydraulic Controls;

(v) He has passed a written examination on tractor safety and has demonstrated his ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

(vi) His employer has on file with the child's records kept pursuant to Rule 2.600 (basically, name, address, and date of birth) a copy of certificate acceptable by the Labor Standards Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university to the effect that the child has completed all the requirements specified in 2.302(c)(3)(A)(i) through (v).

(B) 4-H machine operation program. The child is qualified to be employed in an occupation described in 2.302(a)(2) providing:

- (i) He satisfies all the requirements specified in paragraphs (b)(2)(i) through (v) of this Rule;
- (ii) He has completed an additional 10-hour training program on farm machinery safety, including 4-H Fourth Year Manual, Unit 1, Safe Use of Farm Machinery;
- (iii) He has passed a written and practical examination on safe machinery operation; and
- (iv) His employer has on file with the child's records kept pursuant to Rule 2.600 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that the child has completed all of the requirements specified in 2.302(c)(3)(B)(i) through (iii).

(C) Tractor and machine operation program. The child is qualified to be employed in an occupation described in Rule 2.302(a)(1) and (2) providing:

- (i) He is 14 years of age, or older;
- (ii) He has completed a 4-hour orientation course familiarizing him with the normal working hazards in agriculture;
- (iii) He has completed a 20-hour training program on safe operation of tractors and farm machinery, which covers all material specified in Rule 2.302(c)(3)(A)(iv) and (B)(ii).
- (iv) He has passed a written examination on tractor and farm machinery safety, and has demonstrated his ability to operate a tractor with a two-wheeled trailed implement on a course similar to a 4-H Tractor Operator's Contest course, and to operate farm machinery safely.

(v) His employer has on file with the child's records kept pursuant to Rule 2.600 (basically, name, address and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the volunteer leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that all of the requirements of Rule 2.302(c)(3)(B)(i) through (iv) have been met.

(4) Vocational agriculture training. The findings and declarations of fact in Rule 2.302(a) shall not apply to the employment of a vocational agriculture student under 16 years of age in those occupations in which he has successfully completed one or more training programs described in Rule 2.302(c)(4)(A) or (B) and who has been instructed by his employer in the safe and proper operation of the specific equipment he is to use, who is continuously and closely supervised by this employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

(A) Tractor operation program. The student is qualified to be employed in an occupation described in Rule 2.302(a)(1) provided:

- (i) He is 14 years of age, or older;

- (ii) He is familiar with the normal working hazards in agriculture;
 - (iii) He has completed a 15-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and acceptable by the U.S. Department of Labor. The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, Mich., for the Office of Education. Copies of this training program outline may be obtained from the Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202.
 - (iv) He has passed both a written test and a practical test on tractor safety including a demonstration of his ability to operate safely a tractor with a two wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and
 - (v) His employer has on file with the child's records kept pursuant to Rule 2.600 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in Rule 2.302(c)(4)(i) through (iv).
- (B) Machinery operation program. The student is qualified to be employed in an occupation described in Rule 2.302(a)(2) provided he has completed the Tractor Operation Program described in Rule 2.302(c)(4)(A) and:
- (i) He has completed an additional 10-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and approved by the U.S. Department of Labor;
 - (ii) He has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education and Welfare; and
 - (iii) His employer has on file with the child's records kept pursuant to Rule 2.600 (basically, name, address and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in Rule 2.302(c)(4)(i) and (ii).

2.303 Work Experience and Career Exploration Programs

- (a) This Rule creates an exception to the application of some provisions of this section 300 to the employment of children under sixteen (16) years of age who are enrolled in and employed pursuant to a school-supervised and school-administered work-experience and career exploration program which meets the requirements of paragraph (b) of this Rule in the occupations permitted under paragraph (c) of this Rule and for the periods and under the conditions specified in paragraph (d) of this Rule. With these safeguards, such employment is found not to interfere with the schooling of the child or with their health and well-being and therefore is not deemed to be hazardous.
- (b) A school-supervised and school-administered work-experience and career exploration program shall meet the standards of and be approved by the Arkansas Department of Education and the U.S. Department of Labor as provided in 29 C.F.R. § 570.35a.
- (c) Employment of children enrolled in a program approved pursuant to the requirements of this Rule shall be permitted only in the following occupations:
 - (1) occupations in retail, food service, and gasoline service establishments covered by Rule 2.301; and
 - (2) occupations in agriculture covered by Rule 2.302.

2.304 Administrative Responsibility

- (a) The Director shall be assisted by the Labor Standards Division in making studies and investigation to discover the occupations which are sufficiently dangerous to the life and limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. All interested persons and organizations are invited to cooperate with the Director and the Division by making suggestions and requests and providing pertinent information to the Division concerning employment hazards to children. Submissions should be mailed to the Administrator, Labor Standards Division, Arkansas Department of Labor, 10421 West Markham, Little Rock, Arkansas 72205. In addition, the Administrator of the Labor Standards Division shall have authority to

obtain information by holding conferences to which he may invite various persons who have had experience or expert knowledge concerning occupational hazards to children.

(b) The Administrator of the Labor Standards Division shall from time to time prepare and submit to the Director of Labor reports of investigations with respect to any occupations or group of occupations which he/she has reason to believe should be added to, or deleted from, the list of those found and declared to be particularly hazardous for the employment of children under 16 years of age or detrimental to their health or well-being. Each such report shall contain an explanation of the hazards involved and the reasons why children below the age of 16 are, or are not, particularly susceptible to them. Copies of such reports shall be made available to the public at the offices of Labor Standards Division.

(c) The Director, on recommendation of the Division or on his own motion shall initiate proceedings to make, amend, or revoke a determination regarding a hazardous occupation in these rules and regulations. Notice of such proceedings as well as any rule-making shall comply with the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201 et seq.

(d) Any person may at any time file with the Administrator of the Labor Standards Division a written application, petition or other requests in connection with any proceeding to make, amend, or revoke a hazardous occupation determination. In the event his petition is denied, he will be advised promptly with a simple statement of reasons.

(e) Any person adversely affected or aggrieved by the procedure provided in Rule 2.304 may file a petition for a change with the Labor Standards Division, Arkansas Department of Labor, 10421 West Markham, Little Rock, AR 72205, expressing the change desired with supporting reasons.

SECTION 400 - THE ENTERTAINMENT INDUSTRY

2.400 Definitions

As used in this section:

- (1) "Child" means any minor under sixteen (16) years of age;
- (2) "Department" means the Arkansas Department of Labor;
- (3) "Director" means the Director of the Arkansas Department of Labor;
- (4) "Employ" means to use the services of an individual in any remunerative occupation;
- (5) "Employer" means any individual, company, firm, partnership, association, or corporation employing or seeking to employ a child in the entertainment industry;
- (6) "Entertainment Industry" means any individual, partnership, corporation, association, or group of persons using the services of a child in motion picture productions, television or radio productions, theatrical productions, modeling productions, horse shows, rodeos, and musical performances;
- (7) "Guardian" means an individual who legally has the care and management of the person and the estate of a child during its minority;
- (8) "Nurse" means any licensed RN or LPN;
- (9) "Special effects person" means an individual qualified by training and experience in the planning, setting up and performance of the type of special effect involved; and
- (10) "Stunt coordinator" means an individual qualified by training and experience in the planning, setting up and performance of and type of stunt involved.

2.401 Entertainment Work Permit

(a)(1) No child may be employed in the entertainment industry without an Entertainment Work Permit issued by the Director.

(2) No Entertainment Work Permit will be issued without the following:

- (A) an application for an Entertainment Work Permit on a form provided by the Director;
- (B) one of the following as proof of age;
 - (i) birth certificate.
 - (ii) record of baptism or confirmation.
 - (iii) passport or certificate of arrival in the U.S.
 - (iv) insurance policy at least one (1) year old.
 - (v) a bona fide contemporary record of birth in the family bible.
 - (vi) certified school record;

(C) the written consent of the child's parent or guardian for the issuance of the Entertainment Work Permit;

(D) a written statement from the principal of the school in which the child is enrolled as to the academic standing of the child, the advisability of allowing the child to work, and the arrangements for meeting the state's compulsory attendance law, unless:

(i) the child is not enrolled in school (children ages 7 through 16 inclusive must be enrolled in school), or

(ii) the child will not be employed during a time school is in session;

(Parents of home-schooled children may provide his information upon verification that the child is enrolled in home school);

(E) a written statement from the employer as to:

(i) the length of time, including dates and hours, the child will be employed;

(ii) the child's rate of pay;

(F) a written statement from a doctor licensed to practice medicine in the State of Arkansas as to the health of any child under six (6) years of age and the advisability of allowing the child to work. If the child is not a resident of Arkansas, a written statement from a doctor licensed to practice medicine in the state of the child's residence, together with a copy of the doctor's license may be submitted;

(G) proof of workers compensation coverage or insurance coverage as required by Rule 2.403.

(b) The Director may refuse to issue an Entertainment Work Permit or may suspend or revoke any Entertainment Work Permit for cause, which includes, but is not limited to finding that any of the following conditions exist:

(1) that the child, the child's parent or guardian, or the employer has knowingly submitted false information to the Department in application of an Entertainment Work Permit;

(2) that the child, the child's parent or guardian, or the employer has violated any provisions of Act 647 of 1987 or any rules and regulations lawfully promulgated thereunder;

(3) that the work for which an application of an Entertainment Work Permit is sought is hazardous or detrimental to the health, safety, morals, education or welfare of the child;

(4) that the child is lawfully removed from the custody of the parent or guardian who consented to the issuance of the Entertainment Work Permit.

(c) No child under the age of fifteen (15) days shall be issued an Entertainment Work Permit.

(d) An Entertainment Work Permit shall be issued for the period designated on the face of the permit, not to exceed six (6) months. Application renewal must be made in the same manner and under the same conditions as the original permit.

(e) Prior to the issuance of the Entertainment Work Permit, the Director may require a physical examination of the child to ensure that the child's physical condition permits the minor to perform the work or activity called for by the application for an Entertainment Work Permit without danger to the child's health, safety or welfare. The Director may require a personal interview with the child, the parent or guardian, or the employer for the same purpose.

2.402 Hours and Rest Time

(a) No child shall be permitted at the place of employment, except in compliance with the following:

(1) Children who have reached the age of fifteen (15) days, but have not reached the age of six (6) months, may be at the place of employment for a maximum of two (2) hours between the hours of 9:00 A.M. and 4:30 P.M. The day's work shall not exceed twenty (20) minutes, and under no circumstances shall the child be exposed to bright lights for more than thirty (30) seconds at any one time. When children under six (6) weeks of age are used, a nurse must be provided for each three children or fraction thereof. When children from age six (6) weeks to age six (6) months are used, one nurse must be provided for each ten (10) children or fraction thereof.

(2) Children who have reached the age of six (6) months, but have not reached the age of two (2) years may be at the place of employment for a maximum of four (4) hours per workday, with two (2) hours for work and two (2) hours for rest and recreation.

(3) Children who have reached the age of two (2) years, but have not reached the age of six (6) years may be at the place of employment for a maximum of six (6) hours per workday, with three (3) hours for work and three (3) hours for rest and recreation.

(4) Children the age of six (6) years or older may be at the place of employment a maximum of eight (8) hours, with four (4) hours of work and four (4) hours for school, rest and recreation. On days school is not in session, working hours may be increased to six (6) hours with the consent of the child's parent or guardian and the prior approval of the Department. Requests for approval by the Department must be signed by the employer and the parent or guardian and submitted in writing at least two (2) working days prior to the time needed.

(b) No child shall be required to report for work before 7:00 A.M. No child shall be required to work later than 6:30 P.M. Special requests for a child to work after 6:30 P.M. may be granted by the Director for night exteriors shot as exteriors and live television, musical or theatrical performances after 6:30 P.M. Each such request must be submitted in writing at least two (2) working days prior to the time needed.

(c) With the exception of children under six (6) months of age, all of the hours in which a child may be at the place of employment are exclusive of meal periods, which must be of at least one-half (1/2) hour, and no more than one (1) hour duration. In no event may a child be at the place of employment for a period longer than five and one-half (5 1/2) hours without a meal break.

(d) A child shall receive a twelve (12) hour rest break at the end of his or her workday and prior to the commencement of his or her next day of work for the same employment. Special requests for a child to receive a ten (10) hour rest break may be granted by the Director for one-time performances, provided such requests are submitted in writing at least two (2) working days prior to the time needed.

(e) The time spent by children in rehearsals and in learning or practicing any of the arts, such as singing or dancing, for or under the direction of a motion picture studio, theater, or television studio, shall be counted as work time when such learning or practicing is connected with or is in contemplation of particular pictures or shows.

2.403 Insurance

(a) An Entertainment Work Permit will not be issued unless provision is made by the employer to provide workers compensation coverage or insurance for injury or death caused by an accident when the accident hazard arises while the child is on the business of the employer or performing activities required by the employer. If insurance apart from workers compensation is provided, the schedule of benefits will be as follows:

(1) At least fifty thousand dollars (\$50,000) for accidental death, and this sum shall be reasonably and equitably prorated for dismemberment: and

(2) Blanket medical coverage for all hospital and medical expenses up to twenty-five thousand dollars (\$25,000) and this hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

2.404 Safety and Supervision

(a) The parent or guardian of a child must be present at all times the child is at the place of employment, and will accompany the child to wardrobe, makeup, hairdressing and dressing room facilities. The parent or guardian may designate an individual, other than an agent of the employer, to accompany the child during times the child is at the place of employment, provided the designation is made in writing, signed by the parent or guardian, and presented to the employer prior to the child's scheduled work. A copy of the written designation must be immediately mailed by the employer to the Arkansas Department of Labor.

(b) The employer must designate one individual on each set, stage, or other place of employment to coordinate all matters relating to

the welfare of children, and shall notify the parent or guardian of each child of the name of such individual.

(c) A child must be provided a suitable place to rest or play. Under no circumstances will a car, van or truck constitute a suitable place to rest or play. However, this prohibition does not include recreational vehicles and mobile homes or trailers fully equipped for the comfort and safety of the child.

(d) No child shall be required to work in a situation which places the child in clear and present danger to life or limb. If a child believes he or she to be in such a dangerous situation after having discussed the matter with his or her parent or guardian and the employer or stunt coordinator, then the child shall not be required to perform in such situation, regardless of the validity or reasonableness of his or her belief.

(e) No child shall be required to work with an animal which a reasonable person would regard as dangerous in the circumstances, unless an animal trainer or handler qualified by training and experience is present.

(f) Where scripted or unscripted stunts or other potentially hazardous activity involve a child, a stunt coordinator shall be engaged and present. No child shall be required to perform a stunt without prior consultation between the child, the child's parent or guardian, and the stunt coordinator.

(g) The prior written consent of the child's parent or guardian must be obtained for the performance of any unusual physical, athletic or acrobatic activity, stunts, work involving special effects, or other potentially hazardous activity.

(h) When any unusual physical, athletic or acrobatic activity, stunts, special effects, or other potentially hazardous activity involving a child is contemplated, the employer shall have available a person qualified to administer medical assistance on an emergency basis and transportation to the nearest medical facility providing emergency services. First-aid kits shall always be available at a child's place of employment.

(i) No child shall work in close proximity to explosives or the functioning parts of unguarded and dangerous moving equipment, aircraft or vessels, or of functioning blades or propellers.

2.405 Schooling

An Entertainment Work Permit does not authorize a child to be absent from school in violation of the requirements of state law or regulations or policies of the State Board of Education, the Arkansas Department of Education, or the local School Board.

SECTION 500 - HOURS OF EMPLOYMENT

2.500 Children Under Sixteen (16)

No child under the age of sixteen (16) years shall be employed, permitted, or suffered to work:

- (1) more than six (6) days in any week;
- (2) more than forty-eight (48) hours in any week;
- (3) more than eight (8) hours in any day; or
- (4) before 6:00 a.m. or after 7:00 p.m., except that on nights preceding nonschool days children under sixteen (16) years may be employed until 9:00 p.m.

2.501 Children Under Eighteen (18)

(a) No child under the age of eighteen (18) shall be employed, permitted or suffered to work:

- (1) more than six (6) days in any week;
- (2) more than fifty-four (54) hours in any week;
- (3) more than ten (10) consecutive hours in any day;
- (4) more than ten (10) hours in a twenty-four hour period; or
- (5) before 6:00 a.m. or after 11:00 p.m., except that children ages sixteen (16) and seventeen (17) years may be employed until 12:00 midnight on nights preceding nonschool days.

(b) Children ages sixteen (16) years and seventeen (17) years of age may be employed between the hours of 12:00 midnight and 6:00 a.m. on nights preceding nonschool days, except in the occupations or circumstances listed below and provided the work is not otherwise prohibited by state or federal law:

- (1) in any convenience or retail store of less than 4500 square feet;
- (2) in any restaurant, except that a sixteen (16) or seventeen (17) year old may work in a locked restaurant or fast-food restaurant if only the drive-through window is open to the general public;
- (3) in any business where a child would be working without direct supervision by an adult 21 years of age or older;
- (4) in any business which serves alcohol;
- (5) in any business which provides adult entertainment, including nude or topless entertainment;
- (6) at any truck stop or service station;
- (7) at any race track or gambling establishment;
- (8) as a security guard;
- (9) as a delivery person; or
- (10) in violation of any local curfew ordinance.

(c) For the purpose of determining compliance and assessing penalties, the department shall enforce the prohibition against more than ten (10) hours of work in a 24-hour period provided by Ark. Code Ann. § 11-6-110(4) and this Rule 2.501(a)(4), in the following manner:

- (1) If a child sixteen (16) or seventeen (17) years old has a rest break between shifts or periods of work of at least ten (10) hours, the department will determine compliance by the hours worked between midnight of one calendar day and midnight of the following calendar day.
- (2) If a child sixteen (16) or seventeen (17) years old does not have a rest break between shifts or periods of work of at least ten (10) hours, the department will determine compliance by the hours worked in any 24-hour period.

SECTION 600 - RECORDKEEPING

2.600 Records To Be Maintained

(a) Every employer of a child under eighteen (18) years of age, whether partially or fully exempted from the Minimum Wage Act, Ark. Code Ann. §§ 11-4-201 through -219, shall maintain complete and accurate records which must contain the following for each employee under age eighteen (18).

- (1) name in full;
- (2) home address, including ZIP code and telephone number;
- (3) date of birth;
- (4) occupation;
- (5) rate of pay;
- (6) any employment certificate or entertainment work permit issued pursuant to Rules 2.200 - 2.203 or 2.401 herein;
- (7) hours worked each workday, including starting time and ending time; and
- (8) total hours worked each workweek.

(b) The records required by Rule 2.600(a) are in addition to and not in lieu of other records or writing required by the Minimum Wage Act, Ark. Code Ann. §§ 11-4-201 through -219, and by other chapters of these rules and regulations including but not limited to gross wages, wage deductions, cost of meals and lodging, tip credits, or commissions.

2.601 Record Accessibility

(a) All records required by Rule 2.600 shall be open for inspection or transcription by the Director or his authorized representative during normal business hours at the place of employment.

(b) Any employment certificate or entertainment work permit issued pursuant to Rules 2.200 - 2.203 or 2.401 shall be maintained and accessible to any authorized representative of the Arkansas Department of Education or any local school official, in addition to the Department of Labor.

2.602 Record Retention

(a) All records required by Rule 2.600 must be retained by employers for a period of three (3) years.

(b) Any employment certificate or entertainment work permit issued pursuant to Rules 2.200 - 2.203 or 2.401 must be retained by employers for a period of three (3) years following the termination of the child's employment.

SECTION 700 - CIVIL MONEY PENALTIES

2.700 Civil Penalties

(a) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who employs or permits or suffers any child to be employed or to work in violation of Ark. Code Ann. §§ 11-6-103 through -113 or 11-12-101 through -105, or any regulations issued thereunder, shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation. Each day the violation continues shall with respect to each child so employed or permitted work constitute a separate offense.

(b) The amount of all civil penalties will be determined in accordance with 2.701 of these regulations.

(c) In civil penalty cases, the Administrator of the Labor Standards Division shall notify the person, firm, corporation, partnership, or association, charged with the violation(s) by certified mail of the following:

- (1) the nature of the violation;
- (2) the date(s) of the violation;
- (3) the name of the child(ren);
- (4) the amount of the civil penalty;

(5) the civil penalty determination shall be final, unless within fifteen (15) days after receipt of this notice, the person, firm, corporation, partnership or association charged with the violation(s) notifies the Director of the Department of Labor in writing that he/she contests the penalty; and

(6) the procedure for contesting a civil penalty as provided in 2.702 of these regulations.

(d) If the person, firm, corporation, partnership or association charged with the violation has not filed notice that he/she contests the civil penalty within fifteen (15) days after receiving notice in accordance with 2.700(c) of this regulation, the penalty assessment by the Labor Standards Division becomes the final determination of the Director of Labor.

(e) Notice of the civil penalty may also be delivered in the same manner as summons in civil cases.

2.701 Civil Penalty Assessment

(a) If upon inspection or investigation, the Labor Standards Division finds that a person, firm, partnership or association has violated any of the provisions of Ark. Code Ann. §§11-6-103 through -113 or 11-12-101 through 105, or any regulations issued thereunder, the Administrator of the Labor Standards Division may assess a civil penalty for each violation.

(b) The maximum amount of a civil penalty will be based on the nature and the gravity of the violation or violations. Matters which are indications of the gravity of a violation and which justify maximum civil penalty assessments are:

(1) the likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;

(2) multiplicity of violations by a business or employer;

(3) recurring violations;

(4) employment of any child in a hazardous or detrimental occupation;

(5) violations involving youths under fourteen (14) years of age;

(6) a substantial number of hours worked in excess of the statutory limits;

(7) falsification and/or concealment of information regarding the employment of children in violation of state or federal law; and

(8) failure to assure future compliance.

(c) Reduction in the penalty amount may be made based on the size of the business. The size of the business includes the number of employees and the gross volume of sales.

(d) Assessment of a civil penalty shall be made no later than two (2) years from the date of the occurrence of the violation.

2.702 Contesting a Civil Penalty

(a) An employer may contest the imposition of a civil penalty by filing a written request for a hearing with the Director of Labor, 10421 West Markham, Little Rock, Arkansas 72205. The written request must be made within fifteen (15) days after the employer's receipt of notification of the civil penalty or the assessment will become final.

(b) A written request for a hearing shall be referred to a hearing officer designated by the Director.

(c) The employer shall be provided at least twenty (20) days notice of the hearing. Such notice shall include:

(1) a statement of the time, date, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a short and plain statement of the matters of fact and law asserted; and

(4) a statement that the employer may, upon written request, obtain the issuance of a subpoena by the Director for the attendance and testimony of witnesses and the production of documents.

(d) The designated hearing officer shall, after consideration of the evidence, issue a decision setting forth findings of fact and conclusions of law. Such decision shall become the final determination of the Director, unless judicial review is sought within thirty (30) days pursuant to the Administrative Procedures Act, Ark. Code Ann. § 25-15-212.

The effective date of these regulations is April 14, 1992.